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## BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

**DOCKETED**

LEA MÁRQUEZ PETERSON - Chairwoman  
 SANDRA D. KENNEDY  
 JUSTIN OLSON  
 ANNA TOVAR  
 JIM O'CONNOR

**JUL 11 2022****DOCKETED BY**JS

In the matter of:

DOCKET NO. S-21191A-22-0112

JOHN V. FENECK, CRD No. 2418741, a  
single man,DECISION NO. 78607FENECK CONSULTING GROUP, LLC an  
Arizona limited liability company, a/k/a  
FENECK CONSULTING

**ORDER TO CEASE AND DESIST, ORDER  
 FOR RESTITUTION, ORDER FOR  
 ADMINISTRATIVE PENALTIES AND  
 CONSENT TO SAME**

Respondents.

**BY: JOHN V. FENECK and FENECK  
 CONSULTING GROUP, LLC a/k/a FENECK  
 CONSULTING**

Respondents ("Respondents") elect to permanently waive any right to a hearing and appeal under Articles 7 and 8 of the Arizona Investment Management Act, A.R.S. § 44-3101 *et seq.* ("Investment Management Act") with respect to this Order to Cease and Desist, Order for Restitution, Order for Administrative penalties, and Consent to Same ("Order"). Respondents admit the jurisdiction of the Arizona Corporation Commission ("Commission"); admit only for purposes of this proceeding and any other proceeding in which the Commission is a party the Findings of Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the Commission.

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## I.

## FINDINGS OF FACT

1. From at least February of 2020, through at least October of 2021, John V. Feneck (“Feneck”), CRD No. 2418741, has been a single man and a resident of Scottsdale, Arizona. Feneck entered the securities industry in 1993. From 1993 through the beginning of 2013, Feneck was registered with the Financial Industry Regulatory Authority (“FINRA”) as a General Securities Representative and a securities salesman in multiple states, not including Arizona, and was employed by various securities dealers.

2. Although a registered securities salesman in other states off and on since 1993, since October 2, 2019, Feneck has not been registered with the Commission as a securities salesman and has not been licensed with the Commission as an investment adviser representative.

3. In September of 2019, Feneck started Feneck Consulting for the purpose of being an “international corporate communications firm that works with three distinct types of people: 1) CEO’s and IR [investor relations] executives in the commodities industry, specifically the junior mining sector, that want to raise awareness about the their brand and time sensitive news, 2) HNW [high net-worth] financial advisors that are seeking guidance on asset allocation and how to properly add commodities/metals/miners to their portfolios, and 3) Individual investors that want assistance in assessing the opportunities and risks in the financial markets....” In April of 2021, Feneck formally organized Feneck Consulting Group, LLC also known as Feneck Consulting (hereinafter “Feneck Consulting”) in the state of Arizona. Feneck Consulting has been member-managed limited liability company since it was organized, and Feneck has been its sole member as well as its statutory agent.

4. Feneck Consulting has neither been registered as a securities salesman or dealer with the Commission, nor has it been licensed as investment adviser or investment adviser representative with the Commission.

5. Feneck and Feneck Consulting may be referred to collectively as “Respondents.”

1           **Introduction**

2           6.       Since 2016, Feneck developed relationships with various mining and energy  
3 companies. In September of 2019, Feneck started Feneck Consulting for the purpose of being an  
4 “international corporate communications firm.

5           7.       Between November of 2019, and October of 2021, Feneck Consulting and/or  
6 Feneck had entered into consulting services agreements with at least twenty-four mining and  
7 energy companies. In exchange for the consulting services, Feneck Consulting and/or Feneck  
8 received compensation in the form of cash. Between November of 2019, and October of 2021,  
9 Respondents received at least \$488,750 for their consulting services. In addition to the cash  
10 payments, Feneck also received stock options in at least eight of those companies.

11          8.       In conjunction with the Respondents consulting services agreements with the above-  
12 mentioned mining and energy companies, Respondents have, since at least 2020, cultivated and  
13 maintained an online presence. Feneck Consulting has its own website and YouTube channel,  
14 which the Respondents used to post content about the mining and energy sectors. Also, Feneck had  
15 participated in numerous online interviews/podcasts that focused on his investment analysis of the  
16 mining and energy sectors, which often included discussions about investing in the some of the  
17 mining and energy companies that the Respondents were receiving consulting fees from. And,  
18 since at least June of 2021, Feneck has been a regular contributor on a popular website dedicated to  
19 “precious metals.”

20          9.       Feneck “sometimes” had his contact information listed during several of the online  
21 interviews that he has participated in, and his contact information was listed when he posted  
22 content to Feneck Consulting’s YouTube channel. Often, Feneck urged viewers to give him a call  
23 if they had any questions or were interested in Feneck’s services. Based on the Respondents’ online  
24 presence and urging, since at least February of 2020, the Respondents have been contacted by  
25 numerous individuals that were interested in becoming investment advisory clients of the  
26 Respondents.

**Respondents' investment advisory services**

10. From at least February of 2020, through October of 2021, Respondents transacted business in Arizona as unlicensed investment advisers or investment adviser representatives by providing investment advisory services to at least one hundred and seven clients ("Client(s)"), of which at least one of the Clients was an Arizona resident. The Respondents provided investment advice to the Clients, advised the Clients on asset allocation "to the energy, metals, and mining sectors," and executed transactions in some of the Clients' brokerage accounts on behalf of those Clients. Also, Feneck had discussed with each of the Clients their individual risk tolerance to: (1) Get an idea of what types of investment risks each Client has taken in the past; (2) Understand each Client's current risk tolerance; and (3) Gauge how each Client felt about the current market environment.

11. In exchange, all the Clients paid the Respondents monthly investment advisory fees. The Respondents' "monthly service fees varied with the amount of time/research a [C]lient requested" from the Respondents. Also, the Respondents' monthly fees fluctuated depending on if the Respondents did a "good job" for the Client, and the amount of assets a Client was "actively investing in the mining/metal sectors." According to Feneck, "[w]e work on the honor system, so if you (Client) do well ... we ask that you let us know and we can slightly raise the monthly (fees). If you (Client) do poorly we will lower" the monthly fees. Some of the Clients, in addition to paying monthly fees, also paid Feneck phone fees (split into 15-, 30-, 45-, or 60-minute increments) to speak directly to Feneck to discuss their investment portfolio(s), including economic data that could affect their investments, and get recommendations on potential investments.

12. Many of the Clients, in addition to paying monthly fees, also paid the Respondents performance fees ranging between 10% to 20% on monthly gains on the transactions that the Respondents executed in those Clients' brokerage accounts on behalf of those Clients. Feneck referred to these Clients as "VIP Clients." Respondents referred to those Clients that only paid the

1 Respondents monthly fees and phone fees as “Active Alert Clients or Passive Alert Clients.”  
2 Active Alert Clients and Passive Alert Clients may be referred to collectively as “Alert Clients.”

3 13. From at least February of 2020, through October of 2021, the Clients (Alert and  
4 VIP) collectively paid the Respondents at least \$772,821.64 in investment advisory fees.

5 **Respondents’ Alert Clients**

6 14. Between February of 2020, through October of 2021, Respondents provided  
7 investment advisory services to at least ninety-six Alert Clients (eighty-five Active Alert Clients  
8 and eleven Passive Alert Clients). During this relevant time-period, Respondents recommended  
9 investments in various mining and energy companies to the Alert Clients. According to the  
10 Respondents, “[w]e offer much more than a newsletter.” “If you look at our website  
11 [www.feneckconsulting.com], we offer to the public ... three different levels of service; you can  
12 follow one of these three things and you can literally click a pay button and become an Alert  
13 Client, and we ... start you on alerts that same day.”

14 15. According to Feneck Consulting’s website, Active Alert Clients received the  
15 following services from the Respondents:

- 16 • “Daily alert system on 100% of buys and sells (this occasionally includes ideas  
17 outside of the metals/mining sectors as well);”
  - 18 • “Regular updates on any pertinent news that can move the commodities sector (Fed  
19 policy, ECB policy, Nonfarm Payroll, GDP, etc [sic]);”
  - 20 • “Regular Transcripts of ‘CEO interviews,’ where we share information from a 1-on-  
21 1 meeting;”
  - 22 • Notification “when John will attend a conference, speak at an event, or be  
23 interviewed on a podcast or webcast.”
  - 24 • “Quarterly phone calls with John;” and
  - 25 • “Emails with John.”
- 26

1           16. According to Feneck Consulting's website, the services provided to Passive Alert  
2 Clients are "best suited" for professional individuals that are too busy to follow our daily alert  
3 system, and instead, "want to create a portfolio they can buy and hold over a longer period of  
4 time." Passive Alert Clients receive the following services: (1) Access "to all holdings in the  
5 Feneck Metals & Mining Portfolio, so they can mirror our favorite stocks/mutual funds/ETFs;" (2)  
6 Emails are sent when a position changes in a significant way (for example, 50-100% of the position  
7 has been bought or sold):" and (3) Notification "when John will attend a conference, speak at an  
8 event, or be interviewed on a podcast or webcast." For at least five of the Passive Alert Clients, the  
9 Respondents also provided investment advice specific to these Passive Alert Clients' investment  
10 situations, which included investment portfolio reviews and/or one-on-one phone calls with  
11 Feneck.

12           17. Respondents offered various tiered subscriptions options for the monthly investment  
13 advisory fees charged to Alert Clients (Active Alert Clients and the Passive Alert Clients). The  
14 various subscriptions options charged by the Respondents are "in-line with both the amount of time  
15 you [Alert Client] require and how much money you are investing in metals and mining stocks."  
16 The higher tiered subscription options included a "portfolio review" of the Alert Clients' assets.  
17 Respondents provided some of the Alert Clients assistance in "building a mining or energy  
18 portfolio from the ground up, tailored to your [the Alert Client's] tolerance and preferences such as  
19 size of a company, jurisdiction, short term hold or long-term hold, etc."

20           18. Between February of 2020, and October of 2021, Respondents entered into  
21 Contract(s) for Services with at least eighty-five Active Alert Clients. The Respondents'  
22 Contract(s) for Services with the Active Alert Clients contained the following same or similar  
23 language:

- 24           • "This will serve as documentation of mutual agreement and understanding for  
25 services rendered by" the Respondents "hereinafter referred to as the  
26 'CONSULTANT' and ... the 'CLIENT;'"



- 1           • Services include “multiple email conversations per month ... access to
- 2           CONSULTANT’s investment process and positions;”
- 3           • Discussions about the “CLIENT’s investment philosophy and risk tolerance” and
- 4           the CLIENT’s asset allocation to the energy, metals and mining sectors;”
- 5           • A longer telephone “call once per month of 30-45min [sic] to discuss financial
- 6           markets and answer questions;”
- 7           • “CONSULTANT will suggest certain additions/deletions to CLIENT’S [sic] asset
- 8           allocation on a monthly or quarterly basis;” (emphasis added) and
- 9           • “Monthly fees may go up or down (in an equitable manner) based on potential
- 10          workload and amount of time required.”

11          19. Feneck’s stated goal was to “work with investors that follow his buy alerts and don’t

12 get derailed by volatile days” in the market. According to Feneck, his Clients were “loyal” long-

13 term investors that followed his “lead.” Many of the Alert Clients acted on the Respondents’

14 investment recommendations by mirroring the Respondents’ daily stock transactions and/or

15 portfolio holdings. Between February of 2020, and October of 2021, Feneck used his influence on

16 his Clients to recommend investments in the various mining and energy companies that the

17 Respondents received consulting fees and stock options from.

18          20. According to Feneck, in or about October 2020, he did portfolio reviews for seven

19 new Clients. These seven new Clients were “heavy gold/silver and many own(ed) momentum

20 names,” which Feneck suggested they “sell in favor of” one of the mining companies that Feneck

21 received consulting fees from. Feneck failed to disclose to at least one of his Alert Clients that the

22 Respondents received consulting fees from the above-mentioned mining company.

23          21. On or about August of 2021, Feneck emailed a document titled “Feneck

24 Commodities Report,” which was dated July 23, 2021, to at least five of his Alert Clients. Feneck

25 Commodities Report contained among other things two lists respectively titled, “Feneck Metal &

26 Mining – Top 25 Holdings as of June 30, 2021” and “Feneck Energy – Top 10 Holdings as June

30, 2021.” The companies indicated in both lists were highlighted as profitable holdings. Several of the companies that were included in both of the lists were also companies that Feneck Consulting and/or Feneck received consulting fees from. The consulting fees that Feneck Consulting and/or Feneck received were not disclosed in the Feneck Commodities Report.

22. Feneck failed to disclose to at least one of his Alert Clients that the Respondents received consulting fees and stock options in several of the mining and energy companies that the Respondents recommend to some of the Alert Clients to invest in. Feneck admitted, that he “never sent them (Alert Clients) an email saying ... here’s my client list and all these (mining and energy) companies may or may not be paying me something.”

23. A few of the Respondents’ Clients that were originally Alert Clients later became VIP Clients.

#### **Respondents’ VIP Clients**

24. Between April of 2020, and at least October of 2021, the Respondents provided investment advisory services to eleven VIP Clients. During this time-period, the Respondents executed a Financial Advisor Agreement with at least one of the VIP Clients and executed Contracts for Services with at least eight of the VIP Clients.

25. The Respondents’ Financial Advisor Agreement and Contract for Services contained in sum and substance the following same or similar language:

- “This will serve as a mutual agreement and understanding for services rendered by” the Respondents, “hereinafter referred to as the ‘CONSULTANT’ and ... ‘CLIENT;’”
- “CONSULTANT will ... assist in making trades in CLIENT’s [brokerage] account;”
- “CLIENT agreed ... to provide CONSULTANT with his/her account signon [sic] information as soon as possible;”



- 1 • “Services agreed to are multiple email conversations per month, access to
- 2 CONSULTANT’s investment process and positions, discussion of CLIENT’S [sic]
- 3 investment philosophy and risk tolerance; discussion of CLIENT’s asset allocation
- 4 to the energy, metals, and mining sectors; and a once per month up to 30 minutes to
- 5 discuss financial markets and answer questions;”
- 6 • “CONSULTANT will suggest certain additions/deletions to CLIENT’S [sic] asset
- 7 allocations on a monthly or quarterly basis, but CONSULTANT bears no liability if
- 8 said investments do not perform to the CLIENT’S [sic] expectations;”
- 9 • “In consideration for the Services, the CLIENT shall pay the CONSULTANT ...
- 10 per month during the engagement.” The monthly fee “may go up or down (in an
- 11 equitable manner) based on potential work load [sic], new assets deposited to the
- 12 account and the amount of time required;” and
- 13 • In the months “*where the account value shows a percentage gain over any of the 12*
- 14 *(or 24) months, CLIENT agrees to pay CONSULTANT a 20% (or 10%)*
- 15 *performance fee (paid at the same time the monthly fee is paid).” (emphasis added)*

16 26. In June of 2020, Feneck was introduced to one of the VIP Clients and subsequently  
17 the two developed a personal relationship. In conversation, Feneck touted to this VIP Client  
18 Feneck’s knowledge of the financial industry and that he had worked for multiple investment  
19 companies and had managed investors’ accounts. Feneck represented to the VIP Client that he was  
20 a licensed investment adviser and that he had certifications with FINRA, which allowed him to do  
21 investment trading.

22 27. The VIP Client mentioned to Feneck that she was looking for a financial advisor to  
23 manage her Schwab investment accounts. Feneck responded that he could help her; however, he  
24 would need time to research and review her holdings before proceeding with any relationship. The  
25 VIP Client was induced to hire Feneck to be the VIP Client’s investment adviser because she  
26 trusted Feneck and relied on his representation that he was a licensed investment adviser.

1           28. On June 13, 2020, the above-mentioned VIP Client signed the Respondents'  
2 Contract for Services and emailed it back to Feneck. Shortly thereafter, Feneck spoke with the VIP  
3 Client via telephone and asked the VIP Client for her username and password to the VIP Client's  
4 Schwab investment accounts so that they could review them together. The VIP Client orally gave  
5 the Respondents discretionary authorization to make transactions in her Schwab investment  
6 accounts. However, the Respondents never obtained written discretionary authority to make  
7 transactions on behalf of the VIP Client in her Schwab investment accounts.

8           29. The Respondents failed to execute and file Schwab's Limited Power of Attorney for  
9 Investment Advisor form ("LPOAIA"), which would have authorized the Respondents to make  
10 transactions on behalf of this VIP Client. The LPOAIA would have been a written and signed  
11 formal agreement between the Respondents and the VIP Client, where the VIP Client would have  
12 authorized the Respondents to act an authorized agent on the VIP Client's behalf. The LPOAIA  
13 would have authorized Respondents to make transactions in this VIP Client's Schwab brokerage  
14 accounts.

15           30. In December of 2020, the Respondents began providing investment advisory  
16 services to another VIP Client, who also had a brokerage account held at Schwab. On December 4,  
17 2020, the VIP Client had a telephonic conversation with a representative from Schwab. The  
18 Schwab representative informed the VIP Client that Schwab's LPOAIA form needed to be  
19 completed and filed with Schwab before the Respondents can conduct transactions in the VIP  
20 Client's Schwab brokerage on behalf of the VIP Client. Shortly thereafter, the VIP Client emailed  
21 Feneck a copy of the LPOAIA and stated that the "form needs to be filled out in order for us to get  
22 the ball rolling."

23           31. Feneck completed the Schwab's LPOAIA form, and later admitted that he listed  
24 himself as an "Investment Advisor" and signed the Schwab LPOAIA form. Subsequently, the  
25 LPOAIA form was filed with Schwab, which granted Feneck written authorization to conduct  
26 transactions in the VIP Client's brokerage account on behalf of the VIP Client.

32. Respondents failed to file any written and formal agreements, like Schwab's LPOAIA, with at least nine of the other VIP Clients' brokerage firms, which would have authorized the Respondents to conduct transactions in these VIP Clients' brokerage accounts on behalf these VIP Clients.

33. Feneck had full online access to all the VIP Clients' brokerage accounts. Between April of 2020, and October of 2021, Feneck executed all or most of the transactions in each of the VIP Clients' brokerage accounts on behalf of each VIP Client. Several of Feneck's executed transactions in the VIP Clients' brokerage accounts, including the buying and selling of shares in several of the mining and energy companies that the Respondents received consulting fees and stock options from. Feneck failed to disclose to some of the VIP Clients that Feneck executed transactions in their brokerage accounts to buy and sell shares in several of the mining and energy companies that Respondents received consulting fees and stock options from.

34. From at least February of 2020, through October of 2021, the Clients (Alert and VIP) collectively paid the Respondents at least \$772,821.64 in investment advisory fees. Respondents have returned at least \$95,920.37 of the above-mentioned investment advisory fees back to some of the Clients. The remaining principal balance owed is at least \$676,901.27.

## II.

## CONCLUSIONS OF LAW

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Investment Management Act.

2. Respondents violated A.R.S. § 44-3151 by transacting business in this state as an investment adviser or investment adviser representative while neither licensed nor exempt.

3. Respondents violated A.R.S. § 44-3241 by (a) employing a device, scheme, or artifice to defraud, (b) making untrue statements or misleading omissions of material facts, (c) misrepresenting professional qualifications with the intent that the misrepresentation be relied on, or (d) engaging in transactions, practices, or courses of business that operate or would operate as a

1 fraud or deceit.

2 4. Respondents' conduct are grounds for a cease-and-desist order pursuant to A.R.S.  
3 § 44-3292.

4 5. Respondents' conduct are grounds for an order of restitution pursuant to A.R.S. §  
5 44-3292.

6 6. Respondents' conduct are grounds for administrative penalties under A.R.S. § 44-  
7 3296.

8 **III.**

9 **ORDER**

10 THEREFORE, on the basis of the Findings of Fact, Conclusions of Law, and Respondents'  
11 consent to the entry of this Order, attached and incorporated by reference, the Commission finds  
12 that the following relief is appropriate, in the public interest, and necessary for the protection of  
13 investors:

14 IT IS ORDERED, pursuant to A.R.S. § 44-3292, that Respondents, and any of  
15 Respondents' agents, employees, successors and assigns, permanently cease and desist from  
16 violating the Investment Management Act.

17 IT IS FURTHER ORDERED that Respondents comply with the attached Consent to Entry  
18 of Order.

19 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-3292 that Respondent Feneck shall,  
20 jointly and severally with Respondent Feneck Consulting pay restitution to the Commission in the  
21 principal amount of \$676,901.27 as a result of the conduct set forth in the Findings of Fact and  
22 Conclusions of Law. Payment is due in full on or before July 15, 2022. Payment shall be made to  
23 the "State of Arizona" to be placed in an interest-bearing account controlled by the Commission.  
24 Any principal amount outstanding after July 15, 2022, shall accrue interest at the rate of ten percent  
25 per annum from the date of purchase until the date of this Order, subject to any legal offsets,  
26 pursuant to A.A.C. R14-4-308(C).

1 IT IS FURTHER ORDERED that the restitution ordered in the preceding paragraph will  
2 accrue interest, as of July 16, 2022, at the rate of the lesser of (i) ten percent per annum or (ii) at a  
3 rate per annum that is equal to one per cent plus the prime rate as published by the board of  
4 governors of the federal reserve system in statistical release H. 15 or any publication that may  
5 supersede it on the date that the judgment is entered.

6 The Commission shall disburse the funds on a pro-rata basis to investors shown on the  
7 records of the Commission. Any restitution funds that the Commission cannot disburse because an  
8 investor refuses to accept such payment, or any restitution funds that cannot be disbursed to an  
9 investor because the investor is deceased shall be disbursed on a pro-rata basis to the remaining  
10 investors shown on the records of the Commission. Any funds that the Commission determines it  
11 is unable to or cannot feasibly disburse shall be transferred to the general fund of the state of  
12 Arizona.

13 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-3296 that Respondent Feneck shall,  
14 jointly and severally with Respondent Feneck Consulting pay an administrative penalty in the  
15 amount of \$25,000 as a result of the conduct set forth in the Findings of Fact and Conclusions of  
16 Law. Payment is due in full on the date of this Order. Payment shall be made to the "State of  
17 Arizona." Any amount outstanding shall accrue interest as allowed by law.

18 IT IS FURTHER ORDERED that payments received by the state of Arizona shall first be  
19 applied to the restitution obligation. Upon payment in full of the restitution obligation, payments  
20 shall be applied to the penalty obligation.

21 For purposes of this Order, a bankruptcy filing by Respondents shall be an act of default. If  
22 Respondents do not comply with this Order, any outstanding balance may be deemed in default and  
23 shall be immediately due and payable.

24 IT IS FURTHER ORDERED, that if Respondents fail to comply with this order, the  
25 Commission may bring further legal proceedings against Respondents, including application to the  
26 superior court for an order of contempt.



IT IS FURTHER ORDERED that this Order shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

  
CHAIRWOMAN MÁRQUEZ PETERSON

  
COMMISSIONER KENNEDY


  
COMMISSIONER OLSON

  
COMMISSIONER TOVAR

  
COMMISSIONER O'CONNOR



IN WITNESS WHEREOF, I, MATTHEW J. NEUBERT, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this 11 day of July, 2022.

  
MATTHEW J. NEUBERT  
EXECUTIVE DIRECTOR

DISSENT

DISSENT

This document is available in alternative formats by contacting Carolyn D. Buck, ADA Coordinator, voice phone number (602) 542-3931, e-mail [cdbuck@azcc.gov](mailto:cdbuck@azcc.gov).

(MS)



**CONSENT TO ENTRY OF ORDER**

1  
2           1.       Respondents John V. Feneck (“Feneck”) and Feneck Consulting Group, LLC also  
3 known as Feneck Consulting (“Feneck Consulting”) may collectively be referred to as  
4 “Respondents.” Respondents admit the jurisdiction of the Commission over the subject matter of  
5 this proceeding. Respondents acknowledge that they have been fully advised of their right to a  
6 hearing to present evidence and call witnesses. Respondents knowingly and voluntarily waive any  
7 and all rights to a hearing before the Commission and all other rights otherwise available under  
8 Article 7 of the Investment Management Act and Title 14 of the Arizona Administrative Code.  
9 Respondents acknowledge that this Order to Cease and Desist, Order for Restitution, Order for  
10 Administrative Penalties, and Consent to Same (“Order”) constitutes a valid final order of the  
11 Commission.

12           2.       Respondents knowingly and voluntarily waive any right under Article 8 of the  
13 Investment Management Act to judicial review by any court by way of suit, appeal, or  
14 extraordinary relief resulting from the entry of this Order.

15           3.       Respondents acknowledge and agree that this Order is entered into freely and  
16 voluntarily and that no promise was made or coercion used to induce such entry.

17           4.       Respondents have been represented by an attorney in this matter, they each have  
18 reviewed this order with their attorney, Edwin Barkel, and understand all terms it contains.  
19 Respondents Feneck and Feneck Consulting both acknowledge that their attorney has apprised  
20 them of their rights regarding any conflicts of interest arising from dual representation. Both  
21 Respondents Feneck and Feneck Consulting acknowledge that they have each given their informed  
22 consent to such representation.

23           5.       Respondents admit only for purposes of this proceeding and any other proceeding  
24 in which the Commission is a party the Findings of Fact and Conclusions of Law contained in this  
25 Order. Respondents agree that Respondents shall not contest the validity of the Findings of Fact  
26

1 and Conclusions of Law contained in this Order in any present or future proceeding in which the  
2 Commission is a party.

3         6. Respondents further agree that they shall not deny or contest the Findings of Fact  
4 and Conclusions of Law contained in this Order in any present or future: (a) bankruptcy  
5 proceeding, or (b) non-criminal proceeding in which the Commission is a party (collectively,  
6 “proceeding(s)”). They further agree that in any such proceedings, the Findings of Fact and  
7 Conclusions of Law contained in this Order may be taken as true and correct and that this Order  
8 shall collaterally estop them from re-litigating with the Commission or any other state agency, in  
9 any forum, the accuracy of the Findings of Fact and Conclusions of Law contained in this Order. In  
10 the event Respondents pursue bankruptcy protection in the future, they further agree that in such  
11 bankruptcy proceeding, pursuant to 11 U.S.C. § 523(a)(19), the following circumstances exist:

12         A. The obligations incurred as a result of this Order are a result of the conduct set forth  
13 in the Findings of Fact and Conclusions of Law in the Order and are for the violation of Arizona  
14 state securities laws, pursuant to 11 U.S.C. § 523(a)(19)(A)(i);

15         B. This Order constitutes a judgment, order, consent order, or decree entered in a state  
16 proceeding pursuant to 11 U.S.C. § 523(a)(19)(B)(i), a settlement agreement entered into by  
17 Respondents pursuant to 11 U.S.C. § 523(a)(19)(B)(ii), and a court order for damages, fine,  
18 penalty, citation, restitution payment, disgorgement payment, attorney fee, cost or other payment  
19 owed by Respondents pursuant to 11 U.S.C. § 523(a)(19)(B)(iii).

20         7. By consenting to the entry of this Order, Respondents agree not to take any action or  
21 to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of  
22 Fact or Conclusion of Law in this Order or creating the impression that this Order is without factual  
23 basis.

24         8. While this Order settles this administrative matter between Respondents and the  
25 Commission, Respondents understand that this Order does not preclude the Commission from  
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1 instituting other administrative or civil proceedings based on violations that are not addressed by  
2 this Order.

3 9. Respondents understand that this Order does not preclude the Commission from  
4 referring this matter to any governmental agency for administrative, civil, or criminal proceedings  
5 that may be related to the matters addressed by this Order.

6 10. Respondents understand that this Order does not preclude any other agency or  
7 officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal  
8 proceedings that may be related to matters addressed by this Order.

9 11. Respondents agree that Respondents will not apply to the state of Arizona for  
10 registration as a securities dealer or salesman or for licensure as an investment adviser or  
11 investment adviser representative until such time as all restitution and penalties under this Order are  
12 paid in full.

13 12. Respondents agree that Respondents will not exercise any control over any entity  
14 that offers or sells securities or provides investment advisory services within or from Arizona until  
15 such time as all restitution and penalties under this Order are paid in full.

16 13. Respondents consent to the entry of this Order and agree to be fully bound by its  
17 terms and conditions.

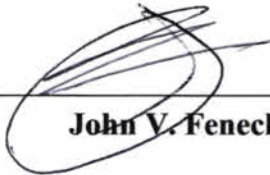
18 14. Respondents acknowledge and understand that if Respondents fail to comply with  
19 the provisions of the order and this consent, the Commission may bring further legal proceedings  
20 against Respondents, including application to the superior court for an order of contempt.

21 15. Respondents understand that default shall render Respondents liable to the  
22 Commission for its costs of collection, including reasonable attorneys' fees and interest at the  
23 maximum legal rate.

24 16. Respondents agree and understand that if Respondents fail to make any payment as  
25 required in the Order, any outstanding balance shall be in default and shall be immediately due and  
26

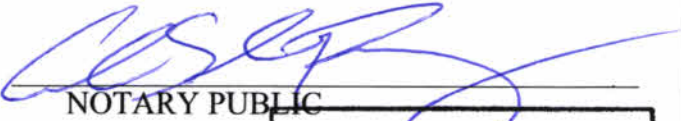
1 payable without notice or demand. Respondents agree and understand that acceptance of any partial  
2 or late payment by the Commission is not a waiver of default by the Commission.

3 17. Respondent Feneck represents that he is the sole member of Respondent Feneck  
4 Consulting and has been authorized by Respondent Consulting to enter into this Order for and on  
5 behalf of it.

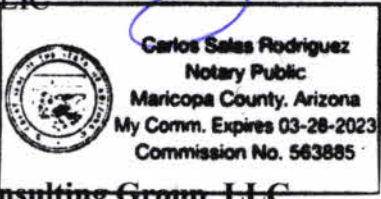
6  
7   
8 **John V. Feneck**

9 STATE OF ARIZONA )  
10 ) ss  
11 County of Maricopa )

12 SUBSCRIBED AND SWORN TO BEFORE me this 9th day of May, 2022.

13   
14 NOTARY PUBLIC

15 My commission expires:  
16 03/28/2023



17 **Feneck Consulting Group, LLC**

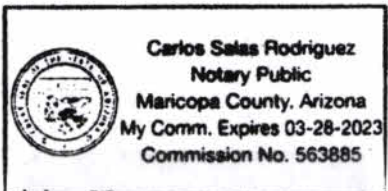
18   
19 By: John V. Feneck  
20 Sole member of Feneck Consulting Group, LLC

21 STATE OF ARIZONA )  
22 ) ss  
23 County of Maricopa )

24 SUBSCRIBED AND SWORN TO BEFORE me this 9th day of May, 2022.

25   
26 NOTARY PUBLIC

My commission expires:  
03/28/2023



1 SERVICE LIST FOR: John V. Feneck et al.

2 Edwin Barkel, Esq.

3 Lewis Roca

201 East Washington Street, Suite 1200

4 Phoenix, AZ 85004

*Attorney for Respondents John V. Feneck and Feneck Consulting Group, LLC*